



Mr. Chris Korleski, Director, Water Division  
U.S. EPA Region 5  
77 W. Jackson Blvd.  
Chicago, IL 60604

Subject: Certification Statement for Approval of a Variance to Water Quality Standards  
City of Appleton Wastewater Treatment Facility (WI-0023221-08)

Dear Mr. Korleski:

The Wisconsin Department of Natural Resources (hereafter Department) has made a final decision under s. 283.15 (4), Wis. Stats., to approve a variance to the water quality standard for mercury at the above-named facility. This decision is subject to judicial review pursuant to ss. 283.15(4)(d) and 227.52, Wis. Stats. Although the Department has issued a final decision on the mercury variance, including the permit terms and conditions of the variance, the Department recognizes that the mercury variance and related permit conditions may not be included in the final reissued WPDES permit until EPA has approved the variance.

Pursuant to 40 CFR 131.21 and 131.6, the Department must submit a certification statement to EPA for each variance approved in the state. The statement must certify that the variance to a water quality standard was approved in accordance with state law.

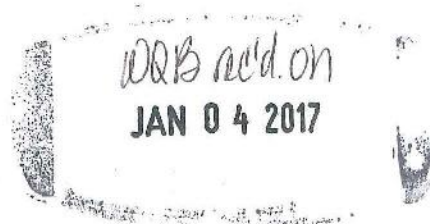
Accordingly, I hereby certify that the mercury variance for City of Appleton Wastewater Treatment Facility was reviewed and approved by Department staff in accordance with procedures in subchapter III of ch. NR 106, Wis. Adm. Code. The application for this variance was submitted on September 29, 2014 and the department public noticed its intent to reissue the permit and grant the mercury variance on August 12, 2016 in accordance with ss. 283.15(3) and 283.39, Wis. Stats. An informational hearing for the mercury variance was also held on September 19, 2016 in accordance with 40 CFR 131.14.

If you have any questions regarding the variance approval, please contact Amanda Minks at 608-264-9223.

Sincerely,

Quinn L. Williams  
Chief Legal Counsel

DATED IN MADISON: 11/15/16





DEC 9 2016

DEC 29 2016

Mr. Chris Korleski, Director, Water Division  
U.S. EPA Region 5  
77 W. Jackson  
Chicago, IL 60604

Subject: Request for Approval of a Variance from Water Quality Standards for Mercury  
Receiving Stream: Fox River in Outagamie County  
Permittee: City of Appleton - WPDES Permit No. WI-0023221-08

Dear Mr. Korleski:

In accordance with s. 283.15, Wis. Stats., and 40 CFR 131, the Wisconsin Department of Natural Resources (hereafter Department) requests U.S. EPA, Region 5 to approve a water quality standards variance for the above-referenced discharge. The water quality criterion for which the permittee is seeking a variance is contained in ch. NR 105, Wis. Adm. Code.

To assist your staff during their review, relevant background information pertaining to this variance is attached to this letter. The draft permit and variance were publicly noticed on August 12, 2016 and a hearing for the variance was held on September 19, 2016. The comment period has now ended. No public comments were received relating to the proposed variance.

The Department is committed to working with the permittee during the term of this variance to find a solution that will lead toward full compliance with the applicable water quality standard. Conditions on the variance, which are included in the WPDES permit, specify actions to be taken by the permittee and timetables for those actions. If the variance is approved by EPA, the Department will include the variance limitation and related conditions in the final WPDES permit.

The Department appreciates your consideration of this request. Should you have further questions regarding this matter, please contact Amanda Minks at 608-264-9223.

Sincerely,

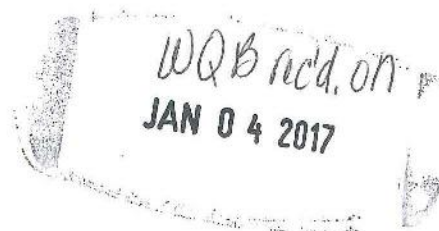
  
Patrick K. Stevens, Administrator  
Division of Environmental Management

DATED:

11/17/16

Attachment  
e-cc

Mark Corbett-WI DNR  
Dick Sachs-WI DNR  
David Pfeifer - EPA Region 5



## **BACKGROUND INFORMATION REGARDING WATER QUALITY STANDARDS VARIANCE**

Receiving Stream and Classification: **Fox River in Outagamie County**

Criterion: **1.3 ng/L wildlife criterion, ch. NR 105 Wis. Adm. Code**

Water Quality Based Effluent Limit: **1.3 ng/L as a monthly average**

Existing Permit Limit: **6.9 ng/L**

Permit Limit Based on Proposed Variance: **3.4 ng/L as a daily maximum**

Duration of Variance: **Five years - from the effective date of permit reissuance through the proposed permit expiration date of March 31, 2022 .**

### Department Rationale for Approving Variance:

Section NR 106.145, Wis. Adm. Code, outlines findings that justify expediting mercury variances. The Department intended that this provision be generally applicable to municipal and industrial dischargers, which produce large volumes of effluent with already extremely low mercury concentrations. More specifically:

- a) The Department considers treating these large volumes to produce effluent that reliably meets the water quality-based effluent limit to be prohibitively expensive. See Section VIII of the Facility Specific Standard Variance Data Sheet for clarification.
- b) At the time of promulgation of s. NR 106.145, Wis. Adm. Code, in October 2002, data on mercury concentrations in wastewater effluents were generally not available. However, after the promulgation of EPA Method 1631, and beginning in 2007, the permittee began generating low-level mercury data on samples of its effluent, showing that although the facility is properly operated and maintained, the WQBELs are not being consistently achieved.
- c) Appropriate mercury source reduction activities are environmentally preferable to wastewater treatment technology in many cases because wastewater treatment for mercury produces a sludge or other resultant wastewater stream that can be as much or more of an environmental liability than the untreated effluent.

The Department concludes that the applicant has met the requirements of Subchapter III of ch. NR 106, Wis. Adm. Code, and s. 283.15, Wis. Stats. The Department further concludes that requiring the applicant to meet the water quality standard for mercury at this time would result in substantial and widespread adverse social and economic impacts. The Department therefore proposes to grant the variance for mercury.

Conditions to be Included in WPDES Permit: **See Attached Draft Permit being sent to EPA in Electronic Format**

Attachments:

**Facility Specific Standard Variance Data Sheet**  
**Certification from DNR Chief Legal Council**